



STATE OF DELAWARE
DEPARTMENT OF FINANCE
DIVISION OF REVENUE
DELAWARE STATE BUILDING
820 N. FRENCH STREET
WILMINGTON, DELAWARE 19801

DIVISION OF REVENUE
TECHNICAL INFORMATION MEMORANDUM 86-4

JULY 1, 1986

SUBJECT: TOBACCO PRODUCTS TAX REGULATIONS

1. Regulatory Statement. These regulations establish an alternative system not employing tax stamps for collection of the tobacco product tax on all tobacco products other than cigarettes. This alternative system is based upon self-assessment and certain reporting requirements. The intent of these regulations is to require each resident distributor and each non-resident distributor who deals directly with the manufacturer of tobacco products to report and pay the tax on those products purchased from the manufacturer for sale in this state, or for shipment into this state for resale at either wholesale or retail.

These regulations make parts of the statutory scheme relating to stamps, stamp affixing, and cancellation inapplicable to tobacco products other than cigarettes. See e.g., 30 Del. C., §5315, §5316, §5317 and §5318. To the extent the statutory provisions of Chapter 53 do not conflict with these regulations and the alternative non-stamp, self-assessment and reporting system adopted therein, they are, of course, applicable and in full force and effect.

2. Authority. These regulations are promulgated pursuant to the authority granted the Division of Revenue in 30 Del. C. §5319.

3. Definitions

3-1 Tobacco Products. "Tobacco products" means all products containing tobacco for personal consumption and includes but is not limited to cigars, little cigars, cigarillos, chewing tobacco, pipe tobacco, smoking tobacco and their substitutes, and snuff, but does not include cigarettes as defined in 30 Del. C. §5301 (2).

3-2 Cigarettes. Cigarettes shall have the same definition for purposes of these regulations as that found at 30 Del. C. §5301 (2).

3-3 Distributor. "Distributor" means: (1) any person engaged in the business of selling tobacco products in this state who brings or causes to be brought into this state from without the state any tobacco products for sale; (2) any person who makes, manufactures, or fabricates tobacco products in this state for sale in this state; (3) any person engaged in the business of selling tobacco products without this state who ships or transports tobacco products to retail dealers in this state to be sold by those retail dealers.

3-4 Manufacturer. "Manufacturer" means any person who manufactures tobacco products from raw tobacco of whatever kind or quality for sale.

3-5 Wholesale price. The tax imposed on the sale or use of tobacco products other than cigarettes in this state is 30% of the wholesale price on such product. See 30 Del. C. §5305 (b). "Wholesale price" means the established price for which a manufacturer sells a tobacco product to a distributor exclusive of any discount, rebate, or other reduction.

4. Incidence and Liability. Pursuant to 30 Del. C. §5305 (b) there is a tax imposed on the sale or use of tobacco products other than cigarettes within this State at the rate of 30% of the wholesale price of such product. Pursuant to 30 Del. C. §5306 the tax shall be paid and reports shall be required by the first person who has possession of untaxed tobacco products in this State.

"Person" as used herein means any distributor of tobacco products as those terms are defined herein [irrespective of whether such person is in fact licensed as required by 30 Del. C. §5307].

Nothing in these regulations shall be construed so as to negate the licensing requirement of 30 Del. C. §5307.

5. Sample Tobacco Products. Sample tobacco products distributed in this state by manufacturers or distributors must be included in the report and the tax must be paid thereon as if they had been acquired for sale.

6. Payment of Tax. The tax imposed under these regulations is required to be remitted on or before the 20th day of the month following the month in which the tobacco products tax accrues.

7. Reports Required. On or before the 20th day of each month, each distributor with a place of business in this State shall file on forms provided a return with the Division of Revenue showing the kind, quantity and wholesale price of each tobacco product: (1) brought or caused to be brought into the state for sale, and (2) made, manufactured, or fabricated in the state for sale in the state during the preceding calendar month.

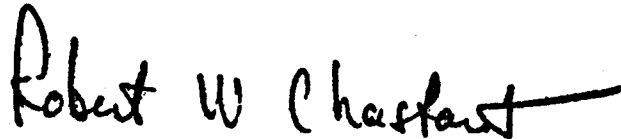
Each distributor without a place of business in this state shall file on forms provided a return on or before the 20th day of each month with the Division of Revenue showing the kind, quantity and wholesale price of each tobacco product shipped or transported to wholesale or retail dealers in this state during the preceding calendar month showing the name and address of each separate dealer.

8. Invoice/Certification. In addition to the information required by the form, each resident/non-resident distributor shall procure from the manufacturer itemized invoices for such tobacco products purchased. The invoices must be retained for a 3 year period from the date of purchase and made available to the Division of Revenue for examination, upon request. Both

resident and non-resident distributors shall certify and include such certification within their reports that the tax imposed by these regulations has been paid.

9. Bonds. No bond shall be required of any tobacco products distributor.

10. Effective Date. These regulations shall be effective 90 days after publication and distribution to tobacco products dealers. The regulations were distributed and made public July 1, 1986.

A handwritten signature in black ink, reading "Robert W Chastant" with a long horizontal stroke at the end.

Robert W. Chastant
Director of Revenue